

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Robert G. Taub, Vice Chairman;  
Mark Acton;  
Tony Hammond; and  
Nanci E. Langley

Competitive Product Prices  
Global Plus 2C Contracts (MC2012-5)  
Negotiated Services Agreements

Docket No. CP2013-38

ORDER APPROVING ADDITIONAL  
GLOBAL PLUS 2C NEGOTIATED SERVICE AGREEMENT

(Issued January 24, 2013)

I. INTRODUCTION

The Postal Service seeks to include a new contract (Agreement) within the Global Plus 2C product on the competitive product list.<sup>1</sup> For the reasons discussed below, the Commission approves the request.

II. BACKGROUND

*Product history.* Global Plus 2C customers are Postal Qualified Wholesalers or other large businesses that offer mailing services to end users for shipping articles via

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<sup>1</sup> Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 2C Contract Negotiated Service Agreement and Application for Non-Public Treatment of Material Filed Under Seal, January 10, 2013 (Notice). The Notice was filed pursuant to 39 C.F.R. 3015.5. *Id.* at 1.

Global Direct and/or International Business Reply Service (IBRS). *Id.* at 6.

Governors' Decision No. 08-10 authorized prices and classifications for Global Plus 2C. *Id.* at 5. Governors' Decision No. 11-6 established the pricing formula for Global Plus 2C agreements. *Id.* The Commission added Global Plus 2C to the competitive product list by operation of Order No. 1135, following consideration in Docket No. MC2012-5.<sup>2</sup> The Commission concurrently included the agreements filed in companion Docket Nos. CP2012-10 and CP2012-11 within Global Plus 2C, and designated them as baseline agreements for assessing the functional equivalency of future agreements proposed for inclusion within the Global Plus 2C product (Governors' Decision Nos. 08-10 and 11-6).

*The Agreement; effective date and term.* The Agreement is the successor to the agreement approved in Docket No. CP2012-10. Notice at 3. The Agreement's expected effective date is January 25, 2013. *Id.* The Agreement is scheduled to expire on the day prior to the date in January 2014 when Canada Post Corporation institutes certain domestic price changes or, in the absence of a price change, on January 31, 2014. *Id.* at 5.

*Commission action.* In Order No. 1618, the Commission resolved a potential gap in coverage between the two agreements by authorizing the Docket No. CP2012-10 agreement to continue through January 31, 2013.<sup>3</sup> In Order No. 1619, the Commission

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<sup>2</sup> Docket Nos. MC2012-5, CP2012-10, and CP2012-11, Order Adding Global Plus 2C to the Competitive Product List and Approving Functionally Equivalent Global Plus 2C Agreements, January 13, 2012 (Order No. 1135).

<sup>3</sup> The potential for a gap in coverage arose because the Docket No. CP2012-10 agreement was scheduled to expire January 14, 2013, but the Agreement could not take effect sooner than January 25, 2013, due to its January 10, 2013 filing date, a related 15-day advance notice requirement, and the need for regulatory approval. See Docket No. CP2012-10, Motion of United States Postal Service for Temporary Relief and Notice of the United States Postal Service of Filing Modification to Global Plus 2C Negotiated Service Agreement, January 9, 2013; see also Docket No. CP2012-10, Order Granting Motion for Temporary Relief, January 11, 2013 (Order No. 1618).

provided notice of the Postal Service's filing, appointed a Public Representative, and provided interested persons with an opportunity to comment.<sup>4</sup>

### III. THE POSTAL SERVICE'S POSITION

The Postal Service asserts that its filing demonstrates that the Agreement complies with the requirements of 39 U.S.C. 3633, is functionally equivalent to the baseline agreement, and therefore should be added to the Global Plus 2C product. Notice at 9. In support of its position, the Postal Service asserts that the instant Agreement and the baseline agreements share similar cost and market characteristics; have very similar functional terms; and offer comparable benefits. *Id.* at 5-6.

The Postal Service asserts that the instant Agreement, like the baseline agreements, fits within the parameters outlined by the Governors' Decisions establishing and authorizing the rates for Global Plus 2C agreements. *Id.* at 6. However, it states that prices may differ, based on volume, postage commitments, and date of signing. *Id.* The Postal Service also identifies other differences stemming from additions, deletions, and revisions, including conforming changes and renumbering. These differences include, among others, the customer's name, the addition of IBRS, and the non-inclusion of Global Bulk Economy (GBE). *Id.* at 7. Other differences include revisions concerning Qualifying Mail and administrative or transactional matters.<sup>5</sup> *Id.* at 7-8.

The Postal Service asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the contract, and claims that nothing detracts from the conclusion that the Agreement is "functionally equivalent in all

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<sup>4</sup> Notice and Order Concerning an Additional Global Plus 2C Contract, January 11, 2013 (Order No. 1619).

<sup>5</sup> The Postal Service identifies the differences between the instant Agreement and the Docket No. CP2012-10 agreement (including conforming changes and renumbering) as affecting the following articles (or annex) in whole or part: Articles 1 through 4; 6 through 9; 12 through 15; 18 and 19; 26; 28; 30 and 31; and Annex 1. *Id.* The Postal Service further identifies articles 35 (intellectual property, co-branding, and licensing) and 36 (warranties and representation) as additional articles. *Id.* at 8.

pertinent aspects” to Docket Nos. CP2012-10 and CP2012-11. *Id.* at 8-9 (footnote omitted).

#### IV. COMMENTS

Comments were filed by the Public Representative.<sup>6</sup> No other comments were received.

*Functional equivalence.* The Public Representative observes that the Postal Service states that the Agreement is very similar to the contracts filed in Docket Nos. CP2012-10 and CP2012-11 that serve as the baseline agreements for the Global Plus 2C product grouping, but also identifies certain differences, including the name of the customer, non-inclusion of GBE service, and other changes. PR Comments at 4. The Public Representative agrees with the Postal Service that the differences the Postal Service has identified do not affect the fundamental service or structure of the Agreement. *Id.*

*Consistency with 39 U.S.C. § 3633.* The Public Representative states that the Postal Service’s financial model indicates that the negotiated prices should generate sufficient revenue to cover costs. *Id.* He therefore concludes that the Agreement appears compliant with section 3633(a). *Id.*

#### V. COMMISSION ANALYSIS

*Scope and nature of review.* The Commission’s responsibilities in this case are to ensure that the Agreement (1) is functionally equivalent to the baseline agreements (Docket Nos. CP2012-10 and CP2012-11); and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. 3015. 5 and 3015.7).

*Functional equivalence.* The Commission has reviewed the Postal Service’s reasons for asserting that the instant Agreement shares similar cost and market

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<sup>6</sup> Public Representative Comments on Request to Add a Functionally Equivalent Global Plus 2C Negotiated Service Agreement, January 23, 2013 (PR Comments).

characteristics with the baseline agreement; meets the pricing formula and classification criteria established in the controlling Governors' Decisions; and comports with 39 U.S.C. 3633 and Commission rules. It also has considered the Public Representative's views. The Commission agrees that the instant Agreement and the baseline agreement are substantially similar, and that any differences do not undermine a finding of functional equivalency. The Commission therefore concludes that the instant Agreement may be included in the Global Plus 2C product on the competitive product list within the draft Mail Classification Schedule.

*Cost considerations.* The Commission has reviewed the Notice, supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs, as required by 39 U.S.C. 3633(a)(2). It finds that the Agreement should not result in competitive products being subsidized by market dominant products as prohibited by 39 U.S.C. 3633(a)(1). The Commission also finds the Agreement should have a positive effect on competitive products' contribution to institutional costs, consistent with 39 U.S.C. 3633(a)(3). Accordingly, a preliminary review of the instant Agreement indicates that it is consistent with the provisions applicable to rates for competitive products.

*Follow-up submissions.* The Postal Service shall promptly notify the Commission of the effective date of the Agreement. The Postal Service shall promptly notify the Commission if the Agreement terminates early and provide the date of termination. In addition, within 30 days of the expiration or termination of the Agreement, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the Agreement, including any penalties paid.

## VI. ORDERING PARAGRAPHS

*It is ordered:*

1. The Agreement filed in Docket No. CP2013-38 is included within the Global Plus 2C product.
2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement.
3. The Postal Service shall promptly notify the Commission if the Agreement terminates earlier than scheduled and provide the date of expiration.
4. Within 30 days of expiration or termination of the Agreement (Docket No. CP2013-38), the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group, including any penalties paid.

By the Commission.

Shoshana M. Grove  
Secretary